

§ 1068.105

civil penalty up to \$3,150 for each engine in violation. This prohibition does not apply in any of the following situations:

(i) You need to repair an engine and you restore it to proper functioning when the repair is complete.

(ii) You need to modify an engine to respond to a temporary emergency and you restore it to proper functioning as soon as possible.

(iii) You modify a new engine that another manufacturer has already certified to meet emission standards and recertify it under your own engine family. In this case you must tell the original manufacturer not to include the modified engines in the original engine family.

(2) *Defeat devices.* You may not knowingly manufacture, sell, offer to sell, or install, an engine part if it bypasses, impairs, defeats, or disables the engine's control the emissions of any pollutant. We may assess a civil penalty up to \$3,150 for each part in violation.

(3) *Stationary engines.* For an engine that is excluded from any requirements of this chapter because it is a stationary engine, you may not move it or install it in any mobile equipment, except as allowed by the provisions of this chapter. You may not circumvent or attempt to circumvent the residence-time requirements of paragraph (2)(iii) of the nonroad engine definition in § 1068.30. We may assess a civil penalty up to \$31,500 for each day you are in violation.

(4) *Competition engines.* For an uncertified engine or piece of equipment that is excluded or exempted from any requirements of this chapter because it is to be used solely for competition, you may not use it in a manner that is inconsistent with use solely for competition. We may assess a civil penalty up to \$31,500 for each day you are in violation.

(5) *Importation.* You may not import an uncertified engine or piece of equipment if it is defined to be new in the standard-setting part and it is built after emission standards start to apply in the United States. We may assess a civil penalty up to \$31,500 for each day you are in violation. Note the following:

(i) The definition of new is broad for imported engines; uncertified engines and equipment (including used engines and equipment) are generally considered to be new when imported.

(ii) Engines that were originally manufactured before applicable EPA standards were in effect are generally not subject to emission standards.

(6) *Warranty.* You must meet your obligation to honor your emission-related warranty under § 1068.115 and to fulfill any applicable responsibilities to recall engines under § 1068.505. Failure to meet these obligations

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is prohibited. We may assess a civil penalty up to \$31,500 for each engine in violation.

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§ 1068.105 What other provisions apply to me specifically if I manufacture equipment needing certified engines?

(a) *Transitioning to new standards.* You may use up your normal inventory of engines not certified to new emission standards if they were built before the date of the new standards. However, stockpiling these engines violates § 1068.101(a)(1).

(b) *Installing engines.* You must follow the engine manufacturer's emission-related installation instructions. For example, you may need to constrain where you place an exhaust aftertreatment device or integrate into your equipment models a device for sending visual or audible signals to the operator. Not meeting the manufacturer's emission-related installation instructions is a violation of § 1068.101(b)(1).

(c) *Attaching a duplicate label.* If you obscure the engine's label, you must do three things to avoid violating § 1068.101(a)(1):

(1) Permanently attach to your equipment a duplicate label. Secure it to a part needed for normal operation and not normally requiring replacement.

(2) Make sure your label is identical to the engine label. You may make the label yourself or get it from the engine manufacturer.

(3) Make sure an average person can easily read it.

(d) *Producing nonroad equipment certified to highway emission standards.* You may produce nonroad equipment from complete or incomplete motor vehicles with the motor vehicle engine if you meet three criteria:

(1) The engine or vehicle is certified to 40 CFR part 86.

(2) The engine is not adjusted outside the manufacturer's specifications.

(3) The engine or vehicle is not modified in any way that may affect its emission control. This applies to evaporative emission controls, but not refueling emission controls.

EFFECTIVE DATE NOTE: At 69 FR 39265, June 29, 2004, § 1068.105 is amended by revising paragraph (c) and adding introductory text, effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

§ 1068.105 What other provisions apply to me specifically if I manufacture equipment needing certified engines?

This section describes general provisions that apply to equipment manufacturers. See the standard-setting part for any requirements that apply for certain applications.

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(c) *Attaching a duplicate label.* If you obscure the engine's label, you must do four things to avoid violating § 1068.101(a)(1):

(1) Send a request for duplicate labels in writing with your company's letterhead to the engine manufacturer. Include the following information in your request:

(i) Identify the type of equipment and the specific engine and equipment models needing duplicate labels.

(ii) Identify the engine family (from the original engine label).

(iii) State the reason that you need a duplicate label for each equipment model.

(iii) Identify the number of duplicate labels you will need.

(2) Permanently attach the duplicate label to your equipment by securing it to a part needed for normal operation and not normally requiring replacement. Make sure an average person can easily read it.

(3) Destroy any unused duplicate labels if you find that you will not need them.

(4) Keep the following records for at least eight years after the end of the model year identified on the engine label:

(i) Keep a copy of your written request.

(ii) Keep drawings or descriptions that show how you apply the duplicate labels to your equipment.

(iii) Maintain a count of those duplicate labels you use and those you destroy.

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§ 1068.110 What other provisions apply to engines in service?

(a) *Aftermarket parts and service.* As the engine manufacturer, you may not require anyone to use your parts or service to maintain or repair an engine, unless we approve this in your application for certification. It is a violation of the Act for anyone to manufacture an engine or vehicle part if one of its main effects is to reduce the effectiveness of the emission controls. See § 1068.101(b)(2).

(b) *Certifying aftermarket parts.* As the manufacturer or rebuilder of an aftermarket engine part, you may—but are not required to—certify according to § 85.2114 of this chapter that using the part will not cause engines to fail to meet emission standards. Whether you certify or not, however, you must keep any information showing how your parts or service affect emissions.

(c) *Compliance with standards.* We may test engines or equipment to investigate compliance with emission standards. We may also require the manufacturer to do this testing.

(d) *Defeat devices.* We may test engines or equipment to investigate potential defeat devices. We may also require the manufacturer to do this testing. If we choose to investigate one of your designs, we may require you to show us that it does not have a defeat device. To do this, you may have to share with us information regarding test programs, engineering evaluations, design specifications, calibrations, on-board computer algorithms, and design strategies. It is a violation of the Act for anyone to make, install or use defeat devices. See § 1068.101(b)(2) and the standard-setting part.

(e) *Warranty and maintenance.* Owners may make warranty claims against the manufacturer for emission-related parts, as described in § 1068.115. This generally includes any emission-related engine parts that were not in common use before we have adopted emission standards. In general, we consider replacement or repair of any other components to be the owner's responsibility. The warranty period begins when the engine is first placed into service. See the standard-setting part for specific requirements. It is a violation of the Act for anyone to disable emission controls. See § 1068.101(b)(1) and the standard-setting part.

EFFECTIVE DATE NOTE: At 69 FR 39266, June 29, 2004, § 1068.110 is amended by revising paragraphs (b), (c), (d), and (e), effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

§ 1068.110 What other provisions apply to engines in service?

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